

ASSEMBLY BILL

No. 1065

Introduced by Assembly Member Holden

February 22, 2013

An act to amend Sections 3000.08 and 3451 of the Penal Code, relating to parole.

LEGISLATIVE COUNSEL'S DIGEST

AB 1065, as introduced, Holden. Parole.

Existing law requires that all persons released from prison on and after October 1, 2011, after serving a prison term for a felony, be subject to postrelease community supervision provided by a county agency for a period of 3 years immediately following release, except for persons released after serving a term for a serious felony, a violent felony, an offense for which the person was sentenced pursuant to the 3 strikes law, a crime where the person is classified as a High Risk Sex Offender, or a crime where the person is required to undergo treatment by the State Department of State Hospitals because the person has a severe mental disorder. Existing law requires these persons to be subject to parole supervision by the Department of Corrections and Rehabilitation following release from state prison.

This bill would require that a person released from state prison who has served a previous prison term for which he or she was required, as a condition of parole, to undergo treatment by the State Department of State Hospitals to be subject to parole supervision by the Department of Corrections and Rehabilitation and the court in the county in which the parolee is released.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 3000.08 of the Penal Code, as amended by Section 35 of Chapter 43 of the Statutes of 2012, is amended to read:

3000.08. (a) ~~Persons~~ *A person* released from state prison prior to or on or after July 1, 2013, after serving a prison ~~term or~~ *term*, or whose sentence has been deemed served pursuant to Section 2900.5, for any of the following crimes ~~shall be~~ *is* subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county ~~where~~ *in which* the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody:

(1) A serious felony as described in subdivision (c) of Section 1192.7.

(2) A violent felony as described in subdivision (c) of Section 667.5.

(3) A crime for which the person was sentenced pursuant to paragraph (2) of subdivision (e) of Section 667 or paragraph (2) of subdivision (c) of Section 1170.12.

(4) Any crime ~~where for which~~ the person ~~eligible for release from prison~~ is classified as a High Risk Sex Offender.

(5) Any crime ~~where for which~~ the person is required, as a condition of parole, to undergo treatment by the ~~State Department of Mental Health~~ *State Hospitals* pursuant to Section 2962.

(b) A person released from state prison after serving a prison term, or whose sentence has been deemed served pursuant to Section 2900.5, who has served a previous prison term for which he or she was required, as a condition of parole, to undergo treatment by the State Department of State Hospitals pursuant to Section 2962, is subject to parole supervision by the Department of Corrections and Rehabilitation and the jurisdiction of the court in the county in which the parolee is released or resides for the purpose of hearing petitions to revoke parole and impose a term of custody.

~~(b)~~

(c) Notwithstanding any other ~~provision~~ of law, all other offenders released from prison shall be placed on postrelease supervision pursuant to Title 2.05 (commencing with Section 3450).

1 ~~(e)~~

2 ~~(d)~~ At any time during the period of parole of a person subject
3 to this section, if any parole agent or peace officer has probable
4 cause to believe that the parolee is violating any term or condition
5 of his or her parole, the agent or officer may, without warrant or
6 other process and at any time until the final disposition of the case,
7 arrest the person and bring him or her before the court, or the court
8 may, in its discretion, issue a warrant for that person's arrest
9 pursuant to Section 1203.2.

10 ~~(d)~~

11 ~~(e)~~ Upon review of the alleged violation and a finding of good
12 cause that the parolee has committed a violation of law or violated
13 his or her conditions of parole, the supervising parole agency may
14 impose additional and appropriate conditions of supervision,
15 including rehabilitation and treatment services and appropriate
16 incentives for compliance, and impose immediate, structured, and
17 intermediate sanctions for parole violations, including flash
18 incarceration in a county jail. Periods of "flash incarceration," as
19 defined in subdivision (e) are encouraged as one method of
20 punishment for violations of a parolee's conditions of parole.
21 ~~Nothing in this~~ This section is intended to *does not* preclude
22 referrals to a reentry court pursuant to Section 3015.

23 ~~(e)~~

24 ~~(f)~~ "Flash incarceration" is a period of detention in county jail
25 due to a violation of a parolee's conditions of parole. The length
26 of the detention period can range between one and 10 consecutive
27 days. Shorter, but if necessary more frequent, periods of detention
28 for violations of a parolee's conditions of parole shall appropriately
29 punish a parolee while preventing the disruption in a work or home
30 establishment that typically arises from longer periods of detention.

31 ~~(f)~~

32 ~~(g)~~ If the supervising parole agency has determined, following
33 application of its assessment processes, that intermediate sanctions
34 up to and including flash incarceration are not appropriate, the
35 supervising parole agency shall, pursuant to Section 1203.2,
36 petition the court in the county in which the parolee is being
37 supervised to revoke parole. At any point during the process
38 initiated pursuant to this section, a parolee may waive, in writing,
39 his or her right to counsel, admit the parole violation, waive a court
40 hearing, and accept the proposed parole modification or revocation.

1 The petition shall include a written report that contains additional
2 information regarding the petition, including the relevant terms
3 and conditions of parole, the circumstances of the alleged
4 underlying violation, the history and background of the parolee,
5 and any recommendations. The Judicial Council shall adopt forms
6 and rules of court to establish uniform statewide procedures to
7 implement this subdivision, including the minimum contents of
8 supervision agency reports. Upon a finding that the person has
9 violated the conditions of parole, the court shall have authority to
10 do any of the following:

11 (1) Return the person to parole supervision with modifications
12 of conditions, if appropriate, including a period of incarceration
13 in county jail.

14 (2) Revoke parole and order the person to confinement in the
15 county jail.

16 (3) Refer the person to a reentry court pursuant to Section 3015
17 or other evidence-based program in the court's discretion.

18 ~~(g)~~

19 *(h)* Confinement pursuant to paragraphs (1) and (2) of
20 subdivision ~~(f)~~ *(g)* shall not exceed a period of 180 days in the
21 county jail.

22 ~~(h)~~

23 *(i)* Notwithstanding any other ~~provision of law, in any case~~
24 ~~where if~~ Section 3000.1 or paragraph (4) of subdivision (b) of
25 Section 3000 applies to a person who is on parole and the court
26 determines that the person has committed a violation of law or
27 violated his or her conditions of parole, the person on parole shall
28 be remanded to the custody of the Department of Corrections and
29 Rehabilitation and the jurisdiction of the Board of Parole Hearings
30 for the purpose of future parole consideration.

31 ~~(i)~~

32 *(j)* Notwithstanding subdivision (a), any of the following persons
33 released from state prison shall be subject to the jurisdiction of,
34 and parole supervision by, the Department of Corrections and
35 Rehabilitation for a period of parole up to three years or the parole
36 term the person was subject to at the time of the commission of
37 the offense, whichever is greater:

38 (1) The person is required to register as a sex offender pursuant
39 to Chapter 5.5 (commencing with Section 290) of Title 9 of Part
40 1, and was subject to a period of parole exceeding three years at

1 the time he or she committed a felony for which they were
2 convicted and subsequently sentenced to state prison.

3 (2) The person was subject to parole for life pursuant to Section
4 3000.1 at the time of the commission of the offense that resulted
5 in a conviction and state prison sentence.

6 ~~(j)~~

7 (k) Parolees subject to this section who have a pending
8 adjudication for a parole violation on July 1, 2013, ~~shall be~~ *are*
9 subject to the jurisdiction of the Board of Parole Hearings. Parole
10 revocation proceedings conducted by the Board of Parole Hearings
11 prior to July 1, 2013, if reopened on or after July 1, 2013, ~~shall be~~
12 *are* subject to the jurisdiction of the Board of Parole Hearings.

13 ~~(k)~~

14 (l) Except as described in subdivision (c), any person who is
15 convicted of a felony that requires community supervision and
16 who still has a period of state parole to serve shall discharge from
17 state parole at the time of release to community supervision.

18 ~~(l) This section shall become operative on July 1, 2013.~~

19 SEC. 2. Section 3451 of the Penal Code is amended to read:

20 3451. (a) Notwithstanding any other law and except for persons
21 serving a prison term for any crime described in subdivision (b),
22 all persons released from prison on and after October 1, 2011, or,
23 whose sentence has been deemed served pursuant to Section 2900.5
24 after serving a prison term for a felony shall, upon release from
25 prison and for a period not exceeding three years immediately
26 following release, be subject to community supervision provided
27 by a county agency designated by each county's board of
28 supervisors which is consistent with evidence-based practices,
29 including, but not limited to, supervision policies, procedures,
30 programs, and practices demonstrated by scientific research to
31 reduce recidivism among individuals under postrelease supervision.

32 (b) This section shall not apply to any person released from
33 prison after having served a prison term for any of the following:

34 (1) A serious felony described in subdivision (c) of Section
35 1192.7.

36 (2) A violent felony described in subdivision (c) of Section
37 667.5.

38 (3) A crime for which the person was sentenced pursuant to
39 paragraph (2) of subdivision (e) of Section 667 or paragraph (2)
40 of subdivision (c) of Section 1170.12.

1 (4) Any crime ~~where for which~~ the person ~~eligible for release~~
2 ~~from prison~~ is classified as a High Risk Sex Offender.

3 (5) Any crime ~~where for which~~ the person is required, as a
4 condition of parole, to undergo treatment by the State Department
5 of State Hospitals pursuant to Section 2962.

6 *(c) This section shall not apply to any person released from*
7 *prison who has served a previous prison term from which the*
8 *person was required, as a condition of parole, to undergo treatment*
9 *by the State Department of State Hospitals pursuant to Section*
10 *2962.*

11 ~~(e)~~
12 (d) (1) Postrelease supervision under this title shall be
13 implemented by a county agency according to a postrelease strategy
14 designated by each county's board of supervisors.

15 (2) The Department of Corrections and Rehabilitation shall
16 inform every prisoner subject to the provisions of this title, upon
17 release from state prison, of the requirements of this title and of
18 his or her responsibility to report to the county agency responsible
19 for serving that inmate. The department shall also inform persons
20 serving a term of parole for a felony offense who are subject to
21 this section of the requirements of this title and of his or her
22 responsibility to report to the county agency responsible for serving
23 that parolee. Thirty days prior to the release of any person subject
24 to postrelease supervision by a county, the department shall notify
25 the county of all information that would otherwise be required for
26 parolees under subdivision (e) of Section 3003.